

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1644

SPONSOR: Natural Resources Committee and Senator Argenziano

SUBJECT: Nitrogen and phosphorus fertilizers

DATE: March 19, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/1 amendment</u>
2.	<u>Branning</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>AED</u>	_____
6.	_____	_____	<u>AP</u>	_____

## I. Summary:

This bill makes changes to s. 576.045, F.S., regarding nitrate contamination of groundwater. It adds phosphorus contamination to water quality issues previously addressed in that section. The bill also expands the law to include contaminated surface waters, along with the ground water and drinking water provisions included in current law. It requires persons licensed to distribute fertilizer to pay a fee of 50 cents per ton on fertilizer containing phosphorus and revises the purposes for which the Department of Agriculture and Consumer Services (department) may use the proceeds of fees levied against licensees. It also revises compliance requirements for property owners or leaseholders with respect to contamination of groundwater from fertilizers. The bill revises requirements for the department, in consultation with the Department of Environmental Protection, the Department of Health, and the water management districts to adopt rules for interim measures, best-management practices, conservation plans, nutrient management plans, and any other measures necessary for water quality improvement.

The expiration dates for certain subsections in s. 576.045, F.S., are extended.

This bill amends section 576.045 of the Florida Statutes.

## II. Present Situation:

Between 1985 and 1992, the Florida Department of Agriculture and Consumer Services (department) and the Florida Department of Environmental Protection (FDEP) jointly conducted surveys of drinking water wells in predominantly agricultural regions of Florida. Survey results from limited sampling in 38 Florida counties showed elevated levels of nitrate in drinking water wells in 36 of the 38 counties tested. Of those 36 counties, 13 had at least one site with nitrate

levels above the federal drinking water standard of 10 parts per million (ppm) set by the United States Environmental Protection Agency (USEPA).

Based on these findings, the department initiated development of a comprehensive program to protect Florida's water resources while maintaining the state's large agricultural industry. The department, in partnership with FDEP, the Florida Farm Bureau, the Florida Fruit and Vegetable Association, the Florida Fertilizer and Agrichemical Association, and other groups, developed a voluntary, incentive-based program to develop individual practices or combinations of practices to specify how nitrogen-based fertilizers are to be used. Two categories of practices were created:

- Interim Measures (IMs) – Based on currently available knowledge, IMs were intended to provide a reasonable expectation of reducing nitrate levels entering ground water.
- Best Management Practices (BMPs) – BMPs are determined by research or field testing at representative sites to be the most effective and practicable methods of fertilization that meets crop needs and nitrate groundwater quality standards.

To fund the development of research-based BMPs and IMs, the 1994 Legislature authorized the department to impose supplemental fees on users of all fertilizer materials containing nitrogen. The authorization was granted through adoption of s. 576.045, F.S.

The FDEP is required to establish procedures for well construction, testing, permitting, and clearance requirements in areas vulnerable to nitrate contamination and in areas where it has provided a restoration subsidy, extended existing water lines, or developed new water supply systems to remediate contaminated water supplies.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 576.045, F.S., to expand program coverage by adding phosphorus contamination to the water quality issues addressed by this law. Adds "surface waters" to the types of waters where residues are found. Continues the 50 cents per ton fee for bulk fertilizer sold in Florida which contains nitrogen and also extends the fee to fertilizer containing phosphorus. Provides that the funds collected from the fee imposed on fertilizer containing nitrogen or phosphorus must be used by the department for research, development, demonstration, and implementation of suitable interim measures, best-management practices or other measures used to achieve state water quality standards for nitrogen and phosphorus criteria. Implementation of interim measures, best-management practices, and other measures may include cost-sharing grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. Also, such funds shall be used for approving, adopting, publishing, and distributing interim measures, best-management practices, or other measures, and for reimbursing the FDEP for certain specified costs. The provisions allowing such funds to be used for contracting with the Institute of Food and Agricultural Sciences at the University of Florida and the College of Engineering, Science, Technology, and Agriculture at Florida A&M University for research related to best management practices relating to fertilizers are deleted.

The FDEP is prohibited from recovering certain costs or damages associated with nitrogen or

phosphorus contamination of groundwater, or surface water provided the property owner or leaseholder provides the department with a notice of intent to implement applicable interim measures, best-management practices, or other measures adopted by the department which practices or measures have been verified by the FDEP and the property owner or leaseholder implements such practices or measures as soon as practicable. The property owner or leaseholder must not apply fertilizers containing nitrogen or phosphorus as of a certain time.

If the property owner or leaseholder implements interim measures, best-management practices, or other measures adopted by the department which have been verified by the FDEP to be effective, then there is a presumption of compliance with state water quality standards for such criteria with respect to the application of fertilizers or other soil applied nutritional materials containing nitrogen or phosphorus if certain specified conditions are met.

The department, in consultation with the FDEP, the Department of Health, and the water management districts, environmental groups, the fertilizer industry, and representatives from the affected farming groups, shall adopt rules relating to interim measures, best-management practices, or other measures.

The expiration date for subsections (1), (2), (3), (4), and (6) of s. 576.045, F.S., is extended from December 31, 2003, to December 31, 2012; and the expiration date for subsections (5) and (7) of s. 576.045, F.S., is extended from December 31, 2008, to December 31, 2017.

**Section 2.** Provides that this act shall take effect July 1, 2003.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

The 50-cent fee currently imposed on fertilizers containing nitrogen is expanded to include those fertilizers that also contain phosphorus.

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

Even with the addition of phosphorus to the fee coverage, the program is essentially revenue neutral because a relatively small amount of fertilizer containing only phosphorus is sold.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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